

AMENDED IN SENATE JUNE 28, 2012

AMENDED IN SENATE JUNE 25, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1498

Introduced by ~~Committee on Budget (Blumenfield (Chair), Alejo, Bonilla, Brownley, Buchanan, Butler, Cedillo, Chesbro, Dickinson, Feuer, Gordon, Huffman, Mitchell, Monning, and Swanson)~~ Assembly Members Buchanan and Achadjian

January 10, 2012

An act to amend Section 19604 of the Business and Professions Code, Section 318 of the Corporations Code, to amend Section 57031 of the Food and Agriculture Code, to amend Sections 3502.5, 3507.1, 3507.3, 3513, 3527, 3541.3, 3563, 8240, 8241, 8245, 10210, 11139.5, 11532, 11538, 11540, 11544, 12804, 12901, 12903, 12904, 12905, 12906, 12925, 12930, 12935, 12944, 12946, 12947.5, 12950, 12950.1, 12961, 12963.5, 12964, 12965, 12966, 12973, 12974, 12975, 12980, 12981, 12981.1, 12983, 12985, 12988, 12989.1, 12989.2, 12990, 19704, 19815, 50085.5, 71632.5, 71636.1, 71636.3, and 71637 of, to add Section 12907 to, to add Division 4.5 (commencing with Section 3600) to Title 1 of, add Article 3 (commencing with Section 10270) to Chapter 1 of Part 2 of Division 2 of Title 2 of, to repeal Sections 11535, 11536, 11537, 11543, 12967, 12968, 12969, 12970, 12972, 12987, 12987.1, and 12989 of, to repeal Article 1 (commencing with Section 8260) of Chapter 3.5 of Division 1 of Title 2 of, to repeal Chapter 1 (commencing with Section 14995) of Part 5.6 of Division 3 of Title 2 of, the Government Code, to amend Section 102346 of the Health and Safety Code, to amend Section 11770 of the Insurance Code, to amend Sections 56, 138.7, 150, 151, 152, 153, 156, 511, 515.5, 515.6, 1202, 1773.3, 1776, 1777.5, 1777.7, 2012, 2013, 2686, 3072, 3073, 6332, 6401.7, 6409, 6409.1,

~~6410, 6411, 6413, and 6413.2 of, to amend the heading of Chapter 7 (commencing with Section 150) of Division 1 of, to add Chapter 4.5 (commencing with Section 108) to Division 1 of, and to repeal Sections 65, 3099, 3099.2, 3099.3, 3099.4, and 3099.5 of, and to repeal Chapter 9 (commencing with Section 1137) of Part 3 of Division 2 of, the Labor Code, to amend Section 422.92, 13519, 13776, 13777.2, and 13836.1 of the Penal Code, to amend Sections 25051, 28850, 30750, 30751, 40120, 50120, 70120, 90300, 99561, 95650, 98162.5, 100301, 101341, 102401, 103401, and 125521 of the Public Utilities Code, to amend Section 401 of the Unemployment Insurance Code, to amend Section 4.2 of the Fresno Metropolitan Transit District Act (Chapter 1932 of the Statutes of 1961), and to amend Sections 13.90 and 13.91 of the West Bay Rapid Transit Authority Act (Chapter 104 of the First Extraordinary Session of the Statutes of 1964), relating to state government, and making an appropriation therefor, to take effect immediately, bill related to the budget. An act to amend, repeal, and add Section 11545 of the Government Code, relating to state technology.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1498, as amended, ~~Committee on Budget~~ *Buchanan. State government. Department of Technology: state contracts: information technology goods and services acquisition.*

Existing law provides that there is in state government the California Technology Agency, which duties include establishing and enforcing state information technology strategic plans, policies, standards, and enterprise architecture. The agency is governed by the Secretary of California Technology.

The Governor's Reorganization Plan No. 2 of 2012 (GRP 2) proposes to reorganize state departments and agencies to, among other things, recast the California Technology Agency as the Department of Technology within the Government Operations Agency, which is also proposed to be established by GRP 2. GRP 2 also proposes to recast the Secretary of California Technology as the Director of Technology, and to remove that position as a member of the Governor's cabinet. GRP 2 proposes to become effective on July 3, 2012, and operative on July 1, 2013, if not disapproved by the Legislature.

This bill would, if GRP 2 becomes effective, require the Director of Technology to report directly to the Governor on issues relating to information technology.

This bill would state the intent of the Legislature that, as part of the planning required for implementing those provisions of the Governor's Reorganization Plan No. 2 of 2012, a plan for transitioning information technology procurement authority from the Department of General Services to the Department of Technology be developed by the Governor or his or designee.

~~(1) Existing law establishes the California State Mediation and Conciliation Service (CSMCS) within the Department of Industrial Relations to investigate and mediate labor disputes, as specified. Existing law governs public transportation labor disputes.~~

~~This bill would repeal and recast those provisions and establish the CSMCS within the Public Employment Relations Board (PERB). The bill would vest PERB with all of the powers, duties, purposes, responsibilities and jurisdiction vested in the Department of Industrial Relations and exercised or carried out through CSMCS.~~

~~(2) Existing law creates within state government the Commission on the Status of Women, consisting of 17 members, including public members appointed by specified executive and legislative officials. Existing law sets forth the powers and duties of the commission, and requires the commission to study certain topics. Existing law requires the commission to act as a information center on the status of women and women's educational, employment, and other related needs.~~

~~This bill would rename the Commission on the Status of Women the Commission on the Status of Women and Girls, and make various conforming changes to that effect. This bill would require the appointing powers, in making appointments of public members to the commission, to make every effort to ensure that there is a geographic balance of representation on the commission. This bill would modify the topics that the commission is required to study by adding some and removing others, including, among others, adding gender equity in the media. This bill would instead require the commission to act as a central information on issues that affect the lives of women and girls. This bill would require the commission to develop a strategy to attract financial support from private donors.~~

~~This bill would state that certain provisions of this bill will prevail over a specified section of the Governor's Reorganization Plan No. 2 of 2012, regardless of the dates on which this bill and that Plan take effect.~~

~~(3) Existing law establishes in state government the Commission on Uniform State Laws, with a specified membership.~~

~~This bill would transfer the Commission on Uniform State Laws to the Legislative Counsel Bureau, and would make conforming changes in law.~~

~~(4) Existing law establishes the Technology Services Board within the Office of Technology Services. Existing law requires the Secretary of California Technology to submit, for board consideration, proposed rates for Office of Technology Services' services. Existing law requires the secretary, prior to submitting the rates to the board, to first submit the proposed rates to the Department of Finance, and requires the department to evaluate the reasonableness of the proposed rates.~~

~~This bill would repeal the provisions establishing the Technology Services Board, and make various conforming changes. This bill would also require the secretary to instead submit the proposed rates directly to the Director of Finance, and would require the Director of Finance to approve the proposed rates based on certain standards and criteria.~~

~~(5) The California Fair Employment and Housing Act establishes the Department of Fair Employment and Housing in the State and Consumer Services Agency, with the power and duties to, among other things, receive, investigate, and conciliate complaints relating to employment and housing discrimination. The California Fair Employment and Housing Act also establishes the Fair Employment and Housing Commission within the State and Consumer Services Agency, with the powers and duties to, among other things, conduct hearings, subpoena witnesses, create or provide financial or technical assistance to advisory agencies and conciliation councils, publish opinions and publications, and conduct mediations at the request of the Department of Fair Employment and Housing.~~

~~This bill would eliminate the Fair Employment and Housing Commission and would transfer the duties of the commission to the Department of Fair Employment and Housing. The bill would create within the department a Fair Employment and Housing Council that would succeed to the powers and duties of the former commission. The bill would establish the Fair Employment and Housing Enforcement and Litigation Fund in the State Treasury to be administered by the department, subject to appropriation, for purposes of deposit of attorney's fees and costs awarded to the department in specified civil actions. The bill would expand specified powers of the department related to complaints, mediations, and prosecutions, and would provide mandatory dispute resolution at no cost to the parties involved, as specified. The bill would eliminate a specified cap of actual damages~~

~~under the act, and would instead require certain actions be brought in court by civil action, rather than by accusation by the department. The bill would make these provisions operative on January 1, 2013.~~

~~(6) Existing law creates the Electronic Funds Transfer Task Force, consisting of 8 members appointed by specified agencies, boards, departments, and offices.~~

~~This bill would eliminate the Electronic Funds Transfer Task Force.~~

~~(7) Existing law establishes the Department of Industrial Relations, divided into 6 divisions known as the Division of Worker's Compensation, the Division of Occupational Safety and Health, the Division of Labor Standards Enforcement, the Division of Labor Statistics and Research, the Division of Apprenticeship Standards, and the State Compensation Insurance Fund. Under existing law, the Division of Labor Statistics and Research collects, compiles, and presents facts and statistics relating to the condition of labor in the state. Existing law provides that, except as specified, no use shall be made in the reports of the Labor Statistics and Research Division of the names of persons supplying information and makes any agent or employee of the division who violates this provision guilty of a misdemeanor.~~

~~This bill would abolish the Division of Labor Statistics and Research and transfer the duties of that division to the Division of Occupational Health and Safety and the Division of Labor Standards Enforcement and make conforming changes. The bill would broaden the application of the misdemeanor referenced above to any agent or employee of the department, thereby creating a state-mandated local program.~~

~~(8) Existing law requires the Division of Apprenticeship Standards to establish and validate minimum standards for the competency and training of electricians through a system of testing and certification.~~

~~This bill would recast the electrician certification responsibilities of the Division of Apprenticeship Standards under the Division of Labor Standards Enforcement and make conforming changes.~~

~~(9) Existing law provides that the Department of Industrial Relations shall monitor and enforce compliance with applicable prevailing wage requirements for any public works project paid for out of public funds. Existing law provides that any awarding agency whose public works contract is subject to provisions regulating the employment of apprentices upon public works shall send a copy of the award to the Division of Apprenticeship Standards.~~

~~This bill would instead require that an awarding agency whose public works contract falls within the jurisdiction of specified monitoring and~~

enforcement compliance provisions, is subject to provisions regulating the employment of apprentices upon public works, or is subject to any other provision providing for the payment of fees to the department for enforcing prevailing wage requirements send a copy of the award to the department.

~~(10) Existing law provides that a contractor or subcontractor who is determined to have knowingly committed a serious violation of specified provisions may be denied the right to bid on or be awarded or perform work on any public works for a period of time. Existing law provides that an affected contractor, subcontractor, or responsible officer may obtain a review of the determination imposing the debarment or civil penalty within 30 days.~~

~~This bill would instead allow for the request of the review within 60 days and make other related changes.~~

~~(11) Existing law creates, in the Employment Development Department, the California Unemployment Insurance Appeals Board, consisting of 7 members, 2 of whom are required to be attorneys at law admitted to practice in California. Existing law authorizes the Governor to appoint 5 of the 7 members, as specified.~~

~~This bill would reduce the number of members of this board to 5 and reduce the number of members the Governor may appoint to 3. This bill would require all members of the board to be attorneys at law admitted to practice in any state of the United States with either a minimum of one year of experience in conducting judicial or administrative hearings or 5 years of experience in the practice of law. This bill would provide that these amendments apply to appointments made on or after January 1, 2013.~~

~~(12) This bill would appropriate \$1,000 from the General Fund to the Department of Finance for purposes of implementing this bill, thereby making an appropriation.~~

~~(13) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~(14) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.~~

Vote: majority. Appropriation: *yes-no*. Fiscal committee: *yes*. State-mandated local program: *yes-no*.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 11545 of the Government Code is*
2 *amended to read:*

3 11545. (a) (1) There is in state government the California
4 Technology Agency. The Secretary of California Technology shall
5 be appointed by, and serve at the pleasure of, the Governor, subject
6 to Senate confirmation. The Secretary of California Technology
7 shall supervise the California Technology Agency and be a member
8 of the Governor's cabinet.

9 (2) Unless the context clearly requires otherwise, whenever the
10 term "office of the State Chief Information Officer" appears in
11 any statute, regulation, or contract, it shall be construed to refer to
12 the California Technology Agency, and whenever the term "State
13 Chief Information Officer" appears in any statute, regulation, or
14 contract, it shall be construed to refer to the Secretary of California
15 Technology.

16 (b) The duties of the Secretary of California Technology shall
17 include, but are not limited to, all of the following:

18 (1) Advising the Governor on the strategic management and
19 direction of the state's information technology resources.

20 (2) Establishing and enforcing state information technology
21 strategic plans, policies, standards, and enterprise architecture.
22 This shall include the periodic review and maintenance of the
23 information technology sections of the State Administrative
24 Manual, except for sections on information technology procurement
25 procedures, and information technology fiscal policy. The Secretary
26 of California Technology shall consult with the Director of General
27 Services, the Director of Finance, and other relevant agencies
28 concerning policies and standards these agencies are responsible
29 to issue as they relate to information technology.

30 (3) Minimizing overlap, redundancy, and cost in state operations
31 by promoting the efficient and effective use of information
32 technology.

33 (4) Providing technology direction to agency and department
34 chief information officers to ensure the integration of statewide
35 technology initiatives, compliance with information technology
36 policies and standards, and the promotion of the alignment and
37 effective management of information technology services. Nothing
38 in this paragraph shall be deemed to limit the authority of a

1 constitutional officer, cabinet agency secretary, or department
2 director to establish programmatic priorities and business direction
3 to the respective agency or department chief information officer.

4 (5) Working to improve organizational maturity and capacity
5 in the effective management of information technology.

6 (6) Establishing performance management and improvement
7 processes to ensure state information technology systems and
8 services are efficient and effective.

9 (7) Approving, suspending, terminating, and reinstating
10 information technology projects.

11 (8) Performing enterprise information technology functions and
12 services, including, but not limited to, implementing Geographic
13 Information Systems (GIS), shared services, applications, and
14 program and project management activities in partnership with the
15 owning agency or department.

16 (c) The Secretary of California Technology shall produce an
17 annual information technology strategic plan that shall guide the
18 acquisition, management, and use of information technology. State
19 agencies shall cooperate with the agency in the development of
20 this plan, as required by the Secretary of California Technology.

21 (1) Upon establishment of the information technology strategic
22 plan, the Secretary of California Technology shall take all
23 appropriate and necessary steps to implement the plan, subject to
24 any modifications and adjustments deemed necessary and
25 reasonable.

26 (2) The information technology strategic plan shall be submitted
27 to the Joint Legislative Budget Committee by January 15 of every
28 year.

29 (d) The Secretary of California Technology shall produce an
30 annual information technology performance report that shall assess
31 and measure the state's progress toward enhancing information
32 technology human capital management; reducing and avoiding
33 costs and risks associated with the acquisition, development,
34 implementation, management, and operation of information
35 technology assets, infrastructure, and systems; improving energy
36 efficiency in the use of information technology assets; enhancing
37 the security, reliability, and quality of information technology
38 networks, services, and systems; and improving the information
39 technology procurement process. The agency shall establish those

1 policies and procedures required to improve the performance of
2 the state's information technology program.

3 (1) The agency shall submit an information technology
4 performance management framework to the Joint Legislative
5 Budget Committee by May 15, 2009, accompanied by the most
6 current baseline data for each performance measure or metric
7 contained in the framework. The information technology
8 performance management framework shall include the performance
9 measures and targets that the agency will utilize to assess the
10 performance of, and measure the costs and risks avoided by, the
11 state's information technology program. The agency shall provide
12 notice to the Joint Legislative Budget Committee within 30 days
13 of making changes to the framework. This notice shall include the
14 rationale for changes in specific measures or metrics.

15 (2) State agencies shall take all necessary steps to achieve the
16 targets set forth by the agency and shall report their progress to
17 the agency on a quarterly basis.

18 (3) Notwithstanding Section 10231.5, the information
19 technology performance report shall be submitted to the Joint
20 Legislative Budget Committee by January 15 of every year. To
21 enhance transparency, the agency shall post performance targets
22 and progress toward these targets on its public Internet Web site.

23 (4) The agency shall at least annually report to the Director of
24 Finance cost savings and avoidances achieved through
25 improvements to the way the state acquires, develops, implements,
26 manages, and operates state technology assets, infrastructure, and
27 systems. This report shall be submitted in a timeframe determined
28 by the Department of Finance and shall identify the actual savings
29 achieved by each office, department, and agency. Notwithstanding
30 Section 10231.5, the agency shall also, within 30 days, submit a
31 copy of that report to the Joint Legislative Budget Committee, the
32 Senate Committee on Appropriations, the Senate Committee on
33 Budget and Fiscal Review, the Assembly Committee on
34 Appropriations, and the Assembly Committee on Budget.

35 *(e) If the Governor's Reorganization Plan No. 2 of 2012*
36 *becomes effective, this section shall become inoperative on July*
37 *1, 2013, and as of January 1, 2014, is repealed.*

38 SEC. 2. Section 11545 is added to the Government Code, to
39 read:

1 11545. (a) (1) There is in state government the Department
2 of Technology within the Government Operations Agency. The
3 Director of Technology shall be appointed by, and serve at the
4 pleasure of, the Governor, subject to Senate confirmation. The
5 Director of Technology shall supervise the Department of
6 Technology and report directly to the Governor on issues relating
7 to information technology.

8 (2) Unless the context clearly requires otherwise, whenever the
9 term “office of the State Chief Information Officer” or “California
10 Technology Agency” appears in any statute, regulation, or
11 contract, or any other code, it shall be construed to refer to the
12 Department of Technology, and whenever the term “State Chief
13 Information Officer” or “Secretary of California Technology”
14 appears in any statute, regulation, or contract, or any other code,
15 it shall be construed to refer to the Director of Technology.

16 (3) The Director of Technology shall be the State Chief
17 Information Officer.

18 (b) The duties of the Director of Technology shall include, but
19 are not limited to, all of the following:

20 (1) Advising the Governor on the strategic management and
21 direction of the state’s information technology resources.

22 (2) Establishing and enforcing state information technology
23 strategic plans, policies, standards, and enterprise architecture.
24 This shall include the periodic review and maintenance of the
25 information technology sections of the State Administrative
26 Manual, except for sections on information technology procurement
27 procedures, and information technology fiscal policy. The Director
28 of Technology shall consult with the Director of General Services,
29 the Director of Finance, and other relevant agencies concerning
30 policies and standards these agencies are responsible to issue as
31 they relate to information technology.

32 (3) Minimizing overlap, redundancy, and cost in state operations
33 by promoting the efficient and effective use of information
34 technology.

35 (4) Providing technology direction to agency and department
36 chief information officers to ensure the integration of statewide
37 technology initiatives, compliance with information technology
38 policies and standards, and the promotion of the alignment and
39 effective management of information technology services. Nothing
40 in this paragraph shall be deemed to limit the authority of a

1 constitutional officer, cabinet agency secretary, or department
2 director to establish programmatic priorities and business direction
3 to the respective agency or department chief information officer.

4 (5) Working to improve organizational maturity and capacity
5 in the effective management of information technology.

6 (6) Establishing performance management and improvement
7 processes to ensure state information technology systems and
8 services are efficient and effective.

9 (7) Approving, suspending, terminating, and reinstating
10 information technology projects.

11 (8) Performing enterprise information technology functions and
12 services, including, but not limited to, implementing Geographic
13 Information Systems (GIS), shared services, applications, and
14 program and project management activities in partnership with
15 the owning agency or department.

16 (c) The Director of Technology shall produce an annual
17 information technology strategic plan that shall guide the
18 acquisition, management, and use of information technology. State
19 agencies shall cooperate with the department in the development
20 of this plan, as required by the Director of Technology.

21 (1) Upon establishment of the information technology strategic
22 plan, the Director of Technology shall take all appropriate and
23 necessary steps to implement the plan, subject to any modifications
24 and adjustments deemed necessary and reasonable.

25 (2) The information technology strategic plan shall be submitted
26 to the Joint Legislative Budget Committee by January 15 of every
27 year.

28 (d) The Director of Technology shall produce an annual
29 information technology performance report that shall assess and
30 measure the state's progress toward enhancing information
31 technology human capital management; reducing and avoiding
32 costs and risks associated with the acquisition, development,
33 implementation, management, and operation of information
34 technology assets, infrastructure, and systems; improving energy
35 efficiency in the use of information technology assets; enhancing
36 the security, reliability, and quality of information technology
37 networks, services, and systems; and improving the information
38 technology procurement process. The department shall establish
39 those policies and procedures required to improve the performance
40 of the state's information technology program.

1 (1) The department shall submit an information technology
2 performance management framework to the Joint Legislative
3 Budget Committee by May 15, 2009, accompanied by the most
4 current baseline data for each performance measure or metric
5 contained in the framework. The information technology
6 performance management framework shall include the performance
7 measures and targets that the department will utilize to assess the
8 performance of, and measure the costs and risks avoided by, the
9 state's information technology program. The department shall
10 provide notice to the Joint Legislative Budget Committee within
11 30 days of making changes to the framework. This notice shall
12 include the rationale for changes in specific measures or metrics.

13 (2) State agencies shall take all necessary steps to achieve the
14 targets set forth by the department and shall report their progress
15 to the department on a quarterly basis.

16 (3) Notwithstanding Section 10231.5, the information technology
17 performance report shall be submitted to the Joint Legislative
18 Budget Committee by January 15 of every year. To enhance
19 transparency, the department shall post performance targets and
20 progress toward these targets on its public Internet Web site.

21 (4) The department shall at least annually report to the Director
22 of Finance cost savings and avoidances achieved through
23 improvements to the way the state acquires, develops, implements,
24 manages, and operates state technology assets, infrastructure, and
25 systems. This report shall be submitted in a timeframe determined
26 by the Department of Finance and shall identify the actual savings
27 achieved by each office, department, and agency. Notwithstanding
28 Section 10231.5, the department shall also, within 30 days, submit
29 a copy of that report to the Joint Legislative Budget Committee,
30 the Senate Committee on Appropriations, the Senate Committee
31 on Budget and Fiscal Review, the Assembly Committee on
32 Appropriations, and the Assembly Committee on Budget.

33 (e) If the Governor's Reorganization Plan No. 2 of 2012
34 becomes effective, this section shall prevail over Section 186 of
35 the Governor's Reorganization Plan No. 2 of 2012, regardless of
36 the dates on which this section and that plan take effect, and this
37 section shall become operative on July 1, 2013.

38 SEC. 3. The Legislature finds and declares that the Governor's
39 Reorganization Plan No. 2 of 2012 proposes to recast and realign
40 the California Technology Agency as the Department of

1 *Technology within the newly created Government Operations*
2 *Agency. As part of the planning required for implementing those*
3 *provisions of the Governor's Reorganization Plan No. 2 of 2012,*
4 *it is the intent of the Legislature that a plan for transitioning*
5 *information technology procurement authority from the Department*
6 *of General Services to the Department of Technology be developed*
7 *by the Governor or his or her designee. That plan shall evaluate*
8 *the appropriate scope, timing, and methodology for both*
9 *transitioning procurement authority for information technology*
10 *goods and services, as well as developing or transferring the*
11 *appropriate human and capital resources to the Department of*
12 *Technology in order to enable the timely acquisition of information*
13 *technology goods and services, and to meet the state's information*
14 *technology needs in the most value-effective manner.*

15 *Further, it is the intent of the Legislature that any planning*
16 *process for transferring the procurement authority to the*
17 *Department of Technology include consideration of stakeholder*
18 *input from relevant groups, including, but not limited to, the Milton*
19 *Marks "Little Hoover" Commission on California State*
20 *Government and Economy, the Legislature, the Department of*
21 *Finance, the Department of General Services, and the Department*
22 *of Technology.*

23 *This section shall become operative only if the Governor's*
24 *Reorganization Plan No. 2 of 2012 becomes effective.*
25

26
27 **All matter omitted in this version of the bill**
28 **appears in the bill as amended in the**
29 **Senate, June 25, 2012. (JR11)**
30